

Page 1

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE:
DOUBLE HELIX CORPORATION,
D/B/A KDHX COMMUNITY MEDIA,

Debtor.

Case No. 25-40745-659
#53

DEPOSITION OF KELLY WELLS
Taken on behalf of the Movant
April 9, 2025
Jo Ann Dickson, CCR 1085

(Whereupon, the deposition commenced at 10:25 a.m.)

1 IT IS HEREBY STIPULATED AND AGREED, by and
2 between counsel for Movant and counsel for Debtor, that the
3 deposition of KELLY WELLS may be taken in shorthand by Jo
4 Ann Dickson, a certified shorthand reporter, and afterwards
5 transcribed into typewriting; and the signature of the
6 witness is expressly reserved.

7 * * * * *

8 KELLY WELLS,
9 of lawful age, being produced, sworn and examined on
10 behalf of the Movant, deposes and says:

11 DIRECT EXAMINATION

12 BY MR. ASKEW:

13 Q Good morning, Ms. Wells.

14 A Good morning.

15 Q We met. My name is Ben Askew. I represent
16 the movant in this matter. Have you had your deposition
17 taken before?

18 A One time, yes.

19 Q Okay. Was that -- what was that in relation
20 to?

21 A It was in relation to a friend's divorce
22 hearing. So not anything like this I'm assuming.

23 Q So you've never testified on behalf of an
24 organization?

25 A I have not.

1 going to object. Vague as to time.

2 BY MR. ASKEW:

3 Q Over the past seven to ten years you said, do
4 you maintain your -- pursuant to that document retention
5 policy, do you --

6 A Yes, pursuant to the document retention
7 policy, yes.

8 Q Now, does that -- does the document retention
9 policy apply to your text messages?

10 A I'm unsure. I'm not sure if it does.

11 Q Like, for example, you text with Gary Pierson
12 about KDHX things, right?

13 A Yes.

14 Q And have you deleted text messages with Gary
15 Pierson?

16 MR. SCHAEFFER: Objection, vague as to time.

17 BY MR. ASKEW:

18 Q In the past these years have you deleted your
19 text messages with Gary Pierson?

20 A Not that I recall. Not that I remember.

21 MR. ASKEW: Okay. I'll make a request to
22 counsel that I think it would be inappropriate to delete
23 text messages. So hopefully we can have that understanding
24 with respect to document retention.

25 (Thereupon, Plaintiff Exhibit 2 was marked for

1 identification.)

2 BY MR. ASKEW:

3 Q Okay. I'm marking Exhibit 2. This is a
4 document beginning with Bates number 72, titled articles of
5 incorporation. Do you recognize Exhibit 2?

6 A I do.

7 Q What is it?

8 A The original articles of incorporation for
9 Double Helix Corporation.

10 Q Do you see under Article 2 it lists the
11 purpose of the organization?

12 A I do.

13 Q And do you see first purpose is the
14 establishment and operation exclusively for educational
15 purposes of one or more noncommercial educational radio
16 broadcasting stations licensed by the Federal
17 Communications Commission. Do you see that?

18 A I do.

19 Q Do you consider that a primary purpose of
20 KDHX?

21 A Yes.

22 Q And it has been ever since the corporation was
23 founded, correct?

24 A Yes.

25 Q And would going away from the -- an FCC

1 licensed radio broadcast be a drastic change to the
2 organization?

3 A It would be a change.

4 Q Would it be a significant change?

5 A Significant?

6 Q Yes.

7 A Yes.

8 Q And if significant changes are being
9 considered to the nonprofit that would be contrary to its
10 nearly 40 year history, who should KDHX make aware of that
11 potential change?

12 MR. SCHAEFFER: Just going to object to the
13 extent it calls for a legal conclusion and has no
14 foundation as far as legal documents.

15 THE WITNESS: Obviously there are concentric
16 circles of people. So staff, board members, volunteers.
17 And then on the outside circle, listeners.

18 BY MR. ASKEW:

19 Q So if a change was being considered, a
20 significant change was being considered to the articles and
21 the purpose of KDHX, is it your testimony that the staff
22 and the board should know about that potential change?

23 MR. SCHAEFFER: Same objection and vague.

24 THE WITNESS: I think it depends on the
25 change. And I think there -- there -- I think when

1 don't know if the way I worded it would encompass both
2 class of members. But I can amend the list. Either way,
3 I'm just -- I'll make a note of it while we're thinking
4 about it. Thank you.

5 BY MR. ASKEW:

6 Q And you also ran the folk school?

7 A I was the executive director of the folk
8 school.

9 Q What years?

10 A I believe it was January 2011 until the folk
11 school merged with KDHX in July 2012.

12 Q What drew you into KDHX in 2008?

13 A I knew of KDHX before I moved to Saint Louis.
14 And I grew up with community radio. So it was natural for
15 me to seek it out when I moved to Saint Louis.

16 Q And you moved to Saint Louis from the Denver
17 area in what year?

18 A I moved to Saint Louis from Herman, Missouri.

19 Q Oh.

20 A Yeah. In 2008.

21 Q In 2008. And prior to that you were in the
22 Denver area?

23 A I was in the Boulder area, yeah.

24 Q I'm just curious where you grew up with
25 community radio.

1 A Memphis and then New Orleans.

2 Q Am I correct to assume that's where your love
3 of music comes from, you growing up in Memphis and New
4 Orleans?

5 A I'd say it comes from my family more, but the
6 cities helped, yes. It is a hotbed of music, for sure.

7 Q So you have a love of music generally?

8 A Yes.

9 Q And you have a love of community radio also?

10 A Yes.

11 Q Why do you think community radio -- well, do
12 you consider KDHX to be community radio?

13 A Yes.

14 Q Why do you think community radio is important?

15 A I believe platforms that give voice to people
16 who would not be heard in mainstream media are important.

17 Q And the FCC license that KDHX currently has
18 allows a platform for voices that otherwise wouldn't be
19 heard on mainstream radio, correct?

20 A It requires it. Well, to put a finer point,
21 not that aren't heard in mainstream media, but that are
22 served in underserved communities and underrepresented
23 communities.

24 Q And do you still feel that way?

25 A What way?

1 Q About the importance of community radio.

2 A I think platforms that do that are important,
3 yes.

4 Q As executive director, is it your job -- is
5 part of your job to make decisions in the best interests of
6 the corporation?

7 A Yes.

8 Q What do you understand that phrase to mean,
9 best interests of the corporation?

10 MR. SCHAEFFER: Just object to the extent it
11 calls for a legal conclusion.

12 You can answer it.

13 THE WITNESS: I think when we say best
14 interests of the corporation, we have to look at the
15 corporation as a whole. So to me that means setting aside
16 individual desires or ideas to serve the whole corporation.

17 BY MR. ASKEW:

18 Q Nobody owns a nonprofit, correct?

19 A Correct.

20 Q It's run by, in this situation it's run by a
21 board of directors, an associate member class, and an
22 executive director, correct?

23 A It's not run by the associate member class.
24 It's run by the staff and the board of directors. So it
25 depends on your definition of run, but --

1 Q Right. There's an associate member class that
2 has voting rights and statutory rights, correct?

3 A Some, yes.

4 Q But none of those people or groups own the
5 nonprofit, right?

6 A Correct.

7 Q So to make decisions in the best interests of
8 the corporation, your testimony is to set aside individual
9 desires, look to the corporation as a whole, and make
10 decisions that are in the best interests of the corporation
11 as a whole. Do I understand that correctly?

12 A Yes.

13 Q Would it be in the best interests of KDHX to
14 not be in bankruptcy, have its financial problems solved
15 and maintain its valuable assets?

16 MR. SCHAEFFER: Vague, compound, calls for
17 legal conclusion.

18 You can answer.

19 THE WITNESS: I think that's an existential
20 question that can't be answered in a yes or no is what I
21 think.

22 BY MR. ASKEW:

23 Q Why can't be that answered in a yes or no?

24 A Because I think there are a lot of factors to,
25 when we say best interests, in what we're trying to

1 accomplish and who we're serving while doing it.

2 Q Nonprofit exists to serve the community,
3 right?

4 A The nonprofit exists to build community
5 through media.

6 Q So your last answer you said you have to look
7 to who you're serving. Who are you serving? Who is KDHX
8 serving?

9 A The people in the Saint Louis region and
10 beyond.

11 Q Why do you say and beyond?

12 A Because through our online streaming, we're
13 serving people all over the world.

14 Q Is it in the best interests of KDHX to
15 maintain its FCC license if it could be financially stable
16 without selling it?

17 MR. SCHAEFFER: Form, foundation.

18 You can answer.

19 THE WITNESS: Not necessarily.

20 BY MR. ASKEW:

21 Q Why not?

22 A Because there are other ways to serve, and we
23 are already serving people all over the world through our
24 online stream.

25 Q Is it in the best interests of the corporation

1 to follow Missouri law?

2 A Yes.

3 MR. SCHAEFFER: Same objection.

4 THE WITNESS: Yes.

5 BY MR. ASKEW:

6 Q Is it in the best interests of the corporation
7 to follow its own bylaws?

8 A Yes feels like a reductive answer, but, yes.

9 Q Is it in the best interests of the
10 organization to follow its articles of incorporation?

11 A In all of these scenarios I would say that
12 those documents serve the organization, not the other way
13 around. So if those documents are continuing to serve the
14 organization and where it is, yes. If not, then not
15 necessarily.

16 Q That's your answer with respect to the
17 articles?

18 A You asked about articles and bylaw kind of in
19 that same scenario.

20 Q I asked about three things, statutory law,
21 bylaws and articles.

22 A So my answer was in respect to bylaws and
23 articles.

24 Q As executive director, do you have fiduciary
25 duties?

1 A Yes.

2 Q And do the members of the board of directors
3 have fiduciary duties?

4 A Yes.

5 Q Does KDHX consider following statutory law to
6 be one of those fiduciary duties?

7 MR. SCHAEFFER: Object to the extent it's
8 vague, calls for a legal conclusion.

9 You can answer.

10 THE WITNESS: Yes.

11 BY MR. ASKEW:

12 Q Does KDHX consider following the bylaws to be
13 one of those fiduciary duties?

14 A Bylaws don't always connect with fiduciary
15 duties. So perhaps in some cases.

16 Q Would that also be your answer for the
17 articles?

18 A Yes.

19 Q Would it be in the best interests of KDHX to
20 not have creditors?

21 A Well, that depends. Sometimes creditors are
22 appropriate.

23 Q Would it be in the best interests of KDHX to
24 not be in bankruptcy?

25 MR. SCHAEFFER: Objection, foundation.

1 You can answer.

2 THE WITNESS: It depends on the scenario.

3 BY MR. ASKEW:

4 Q Would it be in the best interests of KDHX to
5 not have financial problems?

6 MR. SCHAEFFER: Objection, foundation, vague.

7 THE WITNESS: Best interests is vague, and
8 that can mean different things. So I think most
9 organizations would like to be financially healthy.

10 BY MR. ASKEW:

11 Q Would KDHX prefer to be financially healthy?

12 MR. SCHAEFFER: Vague. Go ahead.

13 THE WITNESS: Sure.

14 BY MR. ASKEW:

15 Q Would it be in the best interests of KDHX to
16 be financially healthy and maintain its valuable assets?

17 MR. SCHAEFFER: Compound, vague, foundation.

18 THE WITNESS: It depends on the scenario, so
19 the answer can't be a yes or no on -- on its face.

20 BY MR. ASKEW:

21 Q Under what circumstance would it not be in
22 KDHX's best interests to be financially healthy and be able
23 to maintain its valuable assets?

24 MR. SCHAEFFER: I'm just going to say again
25 vague. I can help. Your context of best interests, you're

1 Q When?

2 A I believe it was in July.

3 Q Of 2024?

4 A Of 2024. And it was a -- it was a what
5 opportunities do we have conversation in different areas,
6 in fundraising, in programming, in the future.

7 Q Was that conversation had because of financial
8 difficulty?

9 A Yes.

10 Q Do you remember any other board meeting prior
11 to July 2024 where the idea of selling the FCC license was
12 discussed?

13 A No. Again, going back to my previous answer
14 of it's always been out there as an option.

15 Q You said you had no clear, concrete idea prior
16 to late 2024 as to the value of the FCC license. Is that
17 right?

18 A That's correct.

19 Q Were you surprised to learn in late 2024 or
20 early 2025 that it could be worth over four
21 million-dollars?

22 A No.

23 Q Has KDHX done any analysis of the future value
24 of the FCC license?

25 A We have not conducted an analysis on our own.

1 We have been educated to market trends in the value of FCC
2 licenses.

3 Q Who educated you about market trends?

4 A Well, our FCC attorney, eventually in late
5 2024 our broker. And then I'm in media, so there's a lot
6 of analysis being done out there about trends in radio.

7 Q Do you know if the value of the FCC license
8 has increased or decreased since you became executive
9 director?

10 A Well, since I didn't have a concrete idea of
11 of what it was before, I can't say with certainty. What
12 the trends are showing is that every FCC license has
13 devalued in the time since I became executive director to
14 here.

15 Q What did your broker tell you about the future
16 market trends on the value of the FCC license?

17 A That it was trending down.

18 Q Do you know why?

19 A I think there a lot of factors.

20 Q Who is your broker?

21 A Greg Guy.

22 Q Did Greg or his company give you a written
23 analysis of market trends?

24 A He did not.

25 Q Are you aware of any written analysis KDHX has

1 regarding the FCC license value?

2 A I am not.

3 Q So is it correct that KDHX's understanding of
4 the value of the license is based on what Greg Guy told
5 you, what you've found on the internet, and what the FCC
6 attorney told you?

7 A Yes.

8 Q Why did KDHX in late 2024 pursue the option of
9 selling its FCC license?

10 A It might be a strong word to say pursue at
11 that point. We were exploring information so that we would
12 have the knowledge of the value of the license. And that
13 was done both for financial reasons and the continuing
14 discussion around how KDHX as an organization shifts with
15 where people are getting and finding media.

16 Q Do you know, do more people listen to
17 terrestrial radio or internet radio?

18 A There are many studies out there. You can
19 find different trends. The general accepted idea right now
20 is that while more Americans may listen to radio than
21 digital radio, their time spent listening has greatly
22 decreased, especially younger demographics, but even up to
23 about age 65 are getting more and more of the majority of
24 their music from digital streaming services and listening
25 longer.

1 Q KDHX currently provides digital streaming
2 services, correct?

3 A Correct.

4 Q How long has KDHX done so?

5 A I am unsure of the year. I believe it was in
6 the early oughts. Perhaps 2002, thereabouts.

7 Q Does KDHX know how many listeners it gets
8 through streaming and how many listeners it gets through
9 FM?

10 A Yes. It's not a -- it's not a perfect system
11 the way ratings are done, but we can see who's clicking on
12 the life player on KDHX and how long they listen. We can
13 see that from our online streams.

14 Q Are there records showing this?

15 A I'm unsure.

16 Q Are there any -- is there any documentation
17 showing how many listeners you get on FM?

18 A There are -- not currently. We have
19 subscribed to Nielson ratings at various points over time.
20 They give an indicator of who's listening and how long.

21 Q Have you ever compared the Nielson ratings to
22 your ability to click on something to see how many people
23 are online?

24 A At points in time, yes.

25 Q When is the last time you did that?

1 Q Sorry. Here we go. So I've turned Exhibit 6
2 to the page where the first full paragraph starts with
3 Wells said.

4 A Huh-huh.

5 Q Okay. Will you read that paragraph to
6 yourself, please. Do you remember saying that?

7 A Not verbatim, no, but --

8 Q Do you think it's generally accurate?

9 A I don't know. One would assume.

10 Q Well --

11 A I rarely think things that RFT says are
12 generally accurate quotes, but do I believe that, yes.

13 Q So just for the record here, so you believe
14 that you and the board have a fiduciary duty, right?

15 A Correct.

16 Q And that you and the board have a higher duty,
17 which is the responsibility we have to live into the values
18 of this organization and to live into our mission and use
19 those values and mission, and the fact that we are here to
20 serve our entire listening audience as the foundation of
21 make decision. So do you agree with that today?

22 A Yes.

23 Q And is that, aside from fiduciary duties, is
24 that higher duty what KDHX has in mind with this bankruptcy
25 process?

1 MR. SCHAEFFER: Form, vague, foundation.

2 THE WITNESS: I think that when making any
3 decision, fiduciary, or otherwise, we have a responsibility
4 to take into consideration the mission of the organization,
5 the values, and who we're serving when making these
6 decisions.

7 BY MR. ASKEW:

8 Q And do you feel like that -- what is the
9 mission?

10 A It's already been stated. The mission of KDHX
11 is to build community through media.

12 Q And then you said values. Do you think those
13 values are written down somewhere?

14 A I know they're written down somewhere, yes.

15 Q Where?

16 A They're in our strategic plan. They're on our
17 website. They're in the corporate policy documents.

18 Q I'm not asking for attorney/client privileged
19 information, but as the KDHX representative, what is
20 KDHX -- what is KDHX's overall goal with the bankruptcy
21 filing?

22 A I would say it's two part. The first goal is
23 the -- is the responsibility we have to creditors and to
24 pay them. And then I think beyond that, it's the idea of
25 an ongoing, more sustainable and resilient organization

1 that can continue to support the mission.

2 Q Do you believe that second goal -- does KDHX
3 believe that second goal can be achieved without selling
4 the FM license?

5 A Is it possible, yes.

6 Q How so?

7 A In the sense that if there is -- if KDHX is in
8 a position to be funded, self-funded, not as reliant on
9 government funding, foundation funding, grant funding, the
10 economy perhaps, then, yes, that goal could be
11 accomplished.

12 Q I want to make sure I understood you
13 correctly. I'm not trying to quote verbatim. The record
14 will do that. Is it your -- is it KDHX's testimony that
15 the goal of an ongoing sustainable resilient organization
16 can be achieved without selling the FCC license if KDHX can
17 have enough revenue to be financially healthy without
18 relying on grants, is that fair?

19 A Well, grants was only one of the things I
20 mentioned. I think that -- we think -- that the
21 organization thinks that a sustainable future looks like
22 not being dependent on ever changing financial and industry
23 scenarios. So being self-funded does that.

24 Q What do you -- as a nonprofit, what do you
25 mean by self-funded?

1 could become self-funded. I wasn't speaking about KDHX
2 looking to do that. That was just examples in general.

3 Q Well, your answer to my question about how can
4 KDHX achieve that goal without --

5 A I see.

6 Q -- without selling its FCC license --

7 A Those are options that some nonprofits would
8 use, yes.

9 Q What about KDHX? If KDHX can accomplish that
10 goal that you have without selling the FCC license, how can
11 KDHX go about accomplishing the goal to be self-funded?
12 What are its options?

13 A I don't know of other options at this time.

14 Q Others besides what?

15 A Selling the license.

16 Q Okay. Well now I think we have two different
17 answers. My prior question was, I asked you about the
18 goals of the bankruptcy. Your answer was, number one,
19 responsibility to creditors. And, number two, an ongoing
20 sustainable resilient organization.

21 A Huh-hum.

22 Q Yes?

23 A Yes.

24 Q And I asked can you achieve goal two without
25 selling the FCC license. And you said yes. And now I'm

1 hearing you say no. What is your answer?

2 MR. SCHAEFFER: Hold on. I just want to put
3 an objection on. It's vague. I think there's a confusion
4 as to the goal one doesn't exist, then you're only thinking
5 of goal two. That's what I interpret all your last
6 questions relate to. But goal one does exist. So
7 objection.

8 BY MR. ASKEW:

9 Q Right. So okay. I mean --

10 A I know of no opportunities for KDHX in the
11 recent or current future that would allow us to accomplish
12 both of those goals outside of the bankruptcy filing.

13 Q Outside of selling the FCC license?

14 A Correct. Sorry, yes. That's a better way to
15 put it, I guess. Both perhaps. Actually -- well, let
16 me -- both. The one allows us to do the other.

17 Q The bankruptcy allows you to sell the FCC
18 license, is that what you're saying?

19 A Not legally, but it allows us to pay creditors
20 while we're doing that, to go ahead and meet those
21 obligations to all of those folks.

22 Q So is KDHX's testimony that the goal of the
23 bankruptcy is to pay off the creditors and sell the
24 license?

25 MR. SCHAEFFER: Objection, asked and answered.

1 You can answer it again.

2 THE WITNESS: Yes.

3 BY MR. ASKEW:

4 Q And has KDHX considered the possibility of
5 emerging from bankruptcy without selling the license?

6 MR. SCHAEFFER: Again, excluding conversations
7 you've had with counsel.

8 THE WITNESS: I don't have memory of a
9 conversation where that was specifically stated.

10 BY MR. ASKEW:

11 Q If a proposal was made to KDHX that allowed
12 KDHX to pay off its creditors 100 percent and build an
13 ongoing sustainable, resilient organization, would KDHX
14 want to consider that offer if it did not include selling
15 the license?

16 MR. SCHAEFFER: Form, speculation.

17 THE WITNESS: That would certainly not be for
18 me to decide.

19 BY MR. ASKEW:

20 Q I'm asking as KDHX.

21 A I don't know.

22 Q So as the KDHX representative today, am I
23 correct that you don't know whether KDHX would consider an
24 exit from bankruptcy that did not involve selling the
25 license?

1 MR. SCHAEFFER: Form, incomplete hypothetical,
2 speculation.

3 THE WITNESS: I do think that's a hypothetical
4 that has not materialized, so it's difficult to know the
5 answer to it.

6 BY MR. ASKEW:

7 Q KDHX could have sold the license without
8 filing bankruptcy, correct?

9 A Technically, yes. Yeah.

10 Q And, in fact, that was -- that idea was
11 attempted in late 2024, early 2025, correct?

12 A Correct.

13 Q And when that process was being explored and
14 then pursued, KDHX understood that in order to do that
15 private sale, it would require an affirmative vote from the
16 board of directors and from the associate members, correct?

17 A Absolutely.

18 Q When was the first time you recall a
19 discussion about those Article 9 votes? Do you understand
20 what I mean by Article 9?

21 A I do.

22 Q That's Article 9, the bylaws that matches
23 Missouri statutory law requiring the votes we just
24 discussed, correct, so we're on the same page?

25 MR. SCHAEFFER: Objection, legal conclusion,

1 foundation.

2 BY MR. ASKEW:

3 Q Well --

4 A I don't know about matches Missouri law.

5 Q Okay. You don't know about Missouri law. So
6 Article 9, is that the provision in the bylaws that
7 requires an affirmative vote from the board and from the
8 associate members in order to sell or lease assets?

9 A That is correct.

10 Q Okay. So when is the first time that you
11 recall a discussion at KDHX about holding or obtaining
12 those Article 9 votes?

13 A Well, do you mean recently?

14 Q Well, yes, in the process of --

15 A In the scope of --

16 Q Yeah, let's be clear for the record. In this
17 process of late 2024, early 2025 --

18 A Right.

19 Q -- we've talked about exploring and then
20 pursuing selling, selling the license, correct?

21 A Right.

22 Q In that time period, or even before then, in
23 2024, what's the first conversation you recall with,
24 internally at KDHX about those Article 9 votes?

25 A I don't recall when conversations took place.

1 Q -- vote conversations. Any changes to your
2 answer since the break and you've had time to think about
3 it? Do you remember any more specifics about that issue?

4 A I believe you asked me if I recall specific
5 conversations, so my answer remains the same.

6 Q Do you remember anything about any
7 conversation? I mean, I don't want to get technical about
8 it if you're reading into my question specific conversation
9 as a way to not answer it. That's not what I'm trying to
10 do here. I'm trying to ask you what you remember at all
11 about any of those conversations.

12 A I don't believe my answer has changed. We
13 were planning -- we knew associates needed to be a part of
14 Article 9. So that was, that process was discussed along
15 the way with everything else.

16 Q Did you ever participate in a predictive vote
17 count?

18 A We did not. I did not.

19 Q Did you ever hear anyone say that based on
20 whatever the current associate membership class was at that
21 time, given the makeup of the class, that KDHX would have a
22 hard time getting the votes it wanted?

23 A I did not ever hear that.

24 Q So who -- you don't remember specifics of the
25 conversations, but who do you remember speaking with about

1 it, or overhearing speaking about it?

2 A I thought that was asked about it. So we
3 talked about board members --

4 Q Right. Any specific board members that might
5 know more than you?

6 A Not to my knowledge.

7 Q Are you aware of any conversations about this
8 subject -- well, in order for me to see who was involved in
9 those conversations that you recall, because you say they
10 happened at board meetings, am I correct that I could look
11 at these minutes, I could look at the minutes and to your
12 extent these would be the people that you know about?

13 A Yes.

14 Q And you don't remember any phone calls you had
15 about this topic?

16 A Not specifically, no, I don't.

17 Q Okay. Was an associate member Article 9 vote
18 to sell assets ever held?

19 A Yes.

20 Q Okay. On March 3rd?

21 A It was a Tuesday.

22 Q Okay. Was it at a meeting?

23 A No.

24 Q Were you present?

25 A No. Well, it was not a meeting, so no one was

1 present.

2 Q Tell me what you know about the associate
3 member vote.

4 A The process was guided by counsel.

5 Q Which counsel? Bankruptcy counsel?

6 A Tueth Keeney counsel. I'm trying to think
7 what I know about this vote. I was not an associate
8 member. I'm not an associate member. So I was not
9 included in that vote.

10 So we forwarded the process that was outlined
11 for us by counsel because we were attempting at every turn
12 to follow the processes in the right way according to the
13 bylaws and any other thing that informed it.

14 If there were Missouri state statutes I'm not
15 sure because I wasn't involved in that. But counsel then
16 guided us in the process.

17 MR. SCHAEFFER: Draw a line right there.

18 THE WITNESS: Okay.

19 BY MR. ASKEW:

20 Q But an actual vote occurred?

21 A Yes.

22 Q And was it done by electronic ballot?

23 A Yes.

24 Q And was notice of that vote provided to the
25 associate members?

1 A Yes.

2 Q How was notice provided?

3 A Electronically.

4 Q Prior to the vote?

5 A Yes.

6 Q Do you know how many days?

7 A I do not.

8 Q That email was not produced. Will you please
9 produce that email notice of the associate meeting for
10 Article 9?

11 A It was not a meeting.

12 Q Email notice of the article 9 vote.

13 Do you know the result of the vote in terms of
14 how many votes and how they voted?

15 A Yes. The vote was unanimous. I don't -- I
16 don't remember the exact number of votes. It would have --
17 yeah, I don't.

18 Q Well, we'll look at -- well, let's just look
19 at it now. I'm marking Exhibit 7. This is titled
20 February 1, 2025 associate members.

21 (Thereupon, Plaintiff Exhibit 7 was marked for
22 identification.)

23 BY MR. ASKEW:

24 Q Are you familiar with Exhibit 7?

25 A Yes.

1 Q And is that a list of the -- is that a list of
2 what KDHX thought was its associate members as of
3 February 1?

4 A Yes.

5 Q And there's only nine people on it, right?

6 A Yes.

7 Q Okay. So there's -- is this the universe of
8 potential voters for the Article 9 associate member vote?

9 A It would have been on February 1st.

10 Q Well, okay, yeah. So, well, I don't see
11 another list after February 1st. Is there a new list of
12 associate members?

13 A Well, I believe -- I believe that there is,
14 after March 1st.

15 Q I don't think that was produced.

16 A Yeah, there's a chance that --

17 Q Okay. Who is on the -- what's the difference
18 between the March 1st list and the February 1st list of
19 associate members?

20 A Courtney Dowdall's term had expired as a board
21 member as of February 31st -- February 28th.

22 Q Okay. So the March 1st associate member list
23 has eight people on it?

24 A It would have been the list that would have
25 been run for the notice of the meeting. I don't know if it

1 is. I don't know that it was run on March 1st, but if her
2 term ended on February 28th, we could then extrapolate that
3 was the list.

4 Q So the list of people that voted on the
5 Article 9 associate member list would have been this list
6 minus Courtney Dowdall?

7 A Correct.

8 Q Is that because Courtney Dowdall was not given
9 notice of the Article 9 vote, correct?

10 A Correct.

11 Q And Courtney Dowdall was not given notice of
12 the board of directors vote to vote on the assets either,
13 correct?

14 A I would assume so.

15 Q You would assume she was not given notice?

16 A Right.

17 Q And Courtney Dowdall was not given notice of a
18 meeting about filing for bankruptcy either, was she?

19 A I assume not. She was -- I didn't notice
20 that. So that's the reason why I'm hesitating because I
21 wouldn't have been the one. So the current active board
22 members were given that one is my understanding because it
23 was a board meeting.

24 Q On what is KDHX's basis for Courtney's
25 termination as a board member expiring on February 28th?

1 A Those terms are for one year and they happen
2 in February, so the end of the year is the end of February,
3 so.

4 Q There was an election for that seat, correct?

5 A Correct.

6 Q And Courtney ran for reelection, correct?

7 A Correct.

8 Q That election ended on February 25th, correct?

9 A That sounds right.

10 Q And so on February 25th, KDHX knew how many
11 votes each candidate for that board meeting received?

12 A The board evaluated those results at some
13 point in the future. I guess in theory we would have known
14 on February 26th, but, yeah it wasn't evaluated on that
15 day.

16 Q When was it evaluated? When were the election
17 results first evaluated for the February board of director
18 election?

19 A In March. And I don't know the date.

20 Q At a meeting?

21 A At the board meeting. At one of the closed
22 session board meetings.

23 Q So that would be in the minutes, right?

24 A Yes.

25 Q Do you -- you attended every board meeting in

1 2025, correct?

2 A I believe so, yes. Every board meeting, yes,
3 yes.

4 Q Do you remember conversations where a decision
5 or an action to determine that Courtney's term expired and
6 therefore she was no longer a director?

7 A There was a discussion. There was a
8 discussion about seating her and the results of the
9 election, and I believe that included a discussion of
10 whether her term had expired or not.

11 Q Even though that conversation happened in
12 March, the conversation in March was about whether her term
13 expired in February?

14 A I don't know. I don't know when that
15 conversation took place, honestly.

16 Q We'll just -- we'll ask Mr. Pierson or go
17 through the minutes. But speaking for KDHX, do you know
18 the basis on which KDHX made the decision that her term
19 expired on -- or that she no longer was a director as of
20 February 28th?

21 A The board makes these decisions, so I'm not
22 trying to not speak on behalf of the organization, but
23 that's not something that I would be a decision maker on
24 and may not have been involved in all of those discussions.
25 I don't know.

1 My understanding as the board terms ends, if
2 you were elected in March, your board terms ends in
3 February. If you were appointed in April, your board term
4 ends at the end of March. That's typically how it's been
5 done over the years in my experience.

6 Q And have you ever seen a situation where --
7 well, strike that.

8 If Courtney's term expired on February 28th
9 and KDHX thinks she's no longer a director as of February
10 28th, was anybody in the board seat after February 28th or
11 in that director position after February 28?

12 A No.

13 Q So it was just empty?

14 A Right.

15 Q Ray Finney remained on the board, correct?

16 A Correct.

17 Q But was his term was also up on February 28?

18 A Yes.

19 Q But he was allowed -- he remained on the board
20 through a new -- in a new spot?

21 A He was appointed to the board.

22 Q Okay. So on March 3rd when the vote to enter
23 bankruptcy occurred, KDHX, KDHX's understanding is that no
24 director was then in the seat previously occupied by
25 Courtney Dowdall?

1 A Correct.

2 Q And that's why it's KDHX didn't give Courtney
3 Dowdall notice?

4 A Correct.

5 Q Okay. And then I think that you testified
6 earlier that KDHX thought her term ended as a director and
7 that she was automatically then terminated as an associate
8 member?

9 A That would be my understanding, yes.

10 Q Well, did she ever get notice that she was
11 terminated as an associate member?

12 A I don't know.

13 Q Well, you wouldn't be involved in sending out
14 that notice?

15 A Not always. I guess it depends. Board seats
16 are a little bit different.

17 Q Well, we're talking about an associate member.

18 A Well, the only way to be an associate member
19 is to be a volunteer. So if you're not an active
20 volunteer, you are not an associate member. Those are one
21 in the same.

22 Q So on March 3rd when the associate member
23 Article 9 vote was taken, your recollection is that the
24 associate member list all eight people at that time?

25 A Correct.

1 Q Do you know if all eight people vote voted?

2 A They did.

3 Q Now, while we have Exhibit 7 in front of us,
4 everyone on Exhibit 7 is a member is on the board of
5 directors except Ryan Spearman, correct?

6 A Correct.

7 Q Okay. So Ryan Spearman is your husband,
8 right?

9 A Yes.

10 Q Whose decision was it that Ryan Spearman was
11 able to remain as an associate member when the other 100
12 plus people were terminated?

13 A His role was different than everyone else's.
14 So the volunteers that we parted ways with on January 31st
15 were all content producers, and Ryan was not a content
16 producer.

17 Q So Ryan Spearman was the only content producer
18 beside members of the board of directors?

19 A He was.

20 Q When was a distinction made between content
21 producers and non-content producers?

22 A That's always been a distinction. Your
23 volunteer role at KDHX falls into categories, like content
24 producer, web developer, or software developer in Ryan's
25 case. Sometimes we have had volunteers that were in the

1 are purely conversational, exploratory research based.

2 Q Just while I'm thinking about it, so for board
3 meetings you produced a lot of board minutes, and in those
4 minutes there will be reports, director reports, finance
5 reports?

6 A Huh-hum.

7 Q And other documents mentioned in the minutes.
8 Are those documents kept?

9 A It would depend on what the documents were.
10 Not necessarily.

11 Q So like if, for example, if like March 2020
12 meeting had a treasurer's report and a director's report,
13 would you be able to go back and find those?

14 A Those are kept for a time if there was an
15 actual written report. Sometimes those reports are verbal
16 and they're not written.

17 Q So if I want to get all the materials from a
18 particular meeting, is there a place I would go to find
19 those?

20 A For recent years. But going back further,
21 those documents are not necessarily retained.

22 Q So like for recent years could you go to your
23 computer and go to a particular month's meeting and click
24 on a folder and see?

25 A Generally, yes.

1 Q Okay. Have you used -- no, I'll strike that.

2 (Thereupon, Plaintiff Exhibit 8 was marked for
3 identification.)

4 BY MR. ASKEW:

5 Q I'm handing you Exhibit 8. Do you recognize
6 Exhibit 8?

7 A Yes.

8 Q What is it?

9 A It is the current version of the Double Helix
10 Corporation bylaws.

11 (Thereupon, Plaintiff Exhibit 9 was marked for
12 identification.)

13 BY MR. ASKEW:

14 Q I'll also hand you Exhibit 9. Do you
15 recognize Exhibit 9?

16 A I do.

17 Q What is it?

18 A It is a resolution of the Double Helix
19 Corporation.

20 Q And that resolution was a resolution to change
21 the bylaws that are written as reflected within Exhibit 8,
22 correct?

23 A Well, to change not the 2025 bylaws, yes, but
24 to update to Exhibit 8, yes.

25 Q Yeah, the result of this resolution, Exhibit

1 9, was Exhibit 8?

2 A Yes, correct.

3 Q And Exhibit 9 is dated January 30th, right?

4 A Correct.

5 Q And Exhibit 8 is dated January 30th, right?

6 A Correct.

7 Q Is January 30th, your understanding, the
8 correct date of when this resolution was adopted?

9 A Yes.

10 Q Did this happen at a board meeting?

11 A I believe that this was a resolution by
12 electronic vote, email.

13 Q So it was not a meeting?

14 A Correct.

15 Q At the bottom of Exhibit 9 it says being all
16 of the board of directors of the company. What do you
17 understand that to mean?

18 A What it says, being all of the board of
19 directors of the company.

20 Q So was this resolution actually ever signed?

21 A It was adopted over E-mail, so this is the
22 setting, yes.

23 Q Okay. So that all caps statement is
24 equivalent to the directors signing this resolution?

25 A Correct.

1 Q So when it says all, that means 100 percent of
2 the board of directors agreed to this resolution?

3 A Yes.

4 Q But as of this date, Courtney Dowdall was
5 still a director, right?

6 A Courtney Dowdall was a suspended director, so
7 she was not an active board member.

8 Q So because Courtney was suspended, she wasn't
9 given notice of any meetings and wasn't invited to any
10 meetings, correct?

11 A That's correct.

12 Q Why did KDHX change its bylaws to reduce the
13 quorum requirement from 17 people to 10 percent?

14 MR. SCHAEFFER: Just quickly, again, to the
15 extent this is going to call for conversations with
16 counsel, I'll instruct you not to answer that. But other
17 conversations you've had or as to the general idea, you can
18 answer that.

19 THE WITNESS: My understanding of the general
20 idea is that the 17 members was an arbitrary number that
21 didn't align with Missouri state statutes. So this quorum
22 is more in line with state statutes.

23 BY MR. ASKEW:

24 Q Well, the very next day KDHX attempted to
25 terminate every associate member except the nine people we

1 see on Exhibit 7, correct?

2 A Yes.

3 Q Okay. So this resolution to reduce the quorum
4 requirement in KDHX, the very next day, all the people
5 would be let go except for these nine people, correct?

6 A We knew we were going to have to let
7 volunteers go.

8 Q If I was to compare the Exhibit 8 bylaws to
9 the 2021 bylaws, are there any other changes besides what
10 we see here on the resolution, or do you not know?

11 A I believe there are not any other changes. I
12 believe this was the only change.

13 Q Now, if you'll turn to the last page of
14 Exhibit 8, there's signatures of Gary Pierson and Joan Bray
15 that were done electronically, correct?

16 A Yes.

17 Q And it says that the date on that says 20th of
18 January, 2025. Do you see that?

19 A That is a typo.

20 Q That is a typo?

21 A Yes. Yes.

22 Q So it's the 30th and you're sure it's a typo?

23 A Yes.

24 Q And when this resolution was adopted, KDHX
25 knew that it was reducing its membership class to under 17

1 people, right?

2 A Correct.

3 Q So then that decision to terminate almost
4 everyone would be in contravention of the 2021 bylaws that
5 reduced the quorum requirement, right?

6 MR. SCHAEFFER: Objection, foundation, form.

7 THE WITNESS: I'm not sure what you're asking.

8 BY MR. ASKEW:

9 Q Well, KDHX knew that the day after that
10 resolution they were going to terminate almost everybody,
11 right?

12 A Yes.

13 Q Okay. And it also knew that the quorum of the
14 associate membership class was a minium of 17, and that
15 they were about to terminate so many people that the
16 membership class would be -- have only nine people, right?

17 A Correct.

18 Q So having only 9 people wasn't allowed by the
19 2021 bylaws, right?

20 MR. SCHAEFFER: Same objections, vague.

21 BY MR. ASKEW:

22 Q You couldn't meet quorum with only nine
23 people?

24 A That is correct, we couldn't meet that part of
25 the quorum.

1 Q So because the termination, the mass
2 termination of everybody on January 31st was about to
3 happen, and that was going to drop the associate membership
4 class below 17 people, that is the reason why KDHX amended
5 its bylaws on January 30th, right?

6 A We needed to have bylaws that served the
7 organization where it was going to be, and if we weren't
8 going to have 17 members, there wasn't anything -- it
9 wasn't serving where the organization was.

10 (Thereupon, Plaintiff Exhibit 10 was marked
11 for identification.)

12 BY MR. ASKEW:

13 Q I'm handing you Exhibit 10 which is the
14 associate member list from January 30th, 2025, correct?

15 A Yes.

16 Q Okay. And this is the day before the
17 termination occurred, right?

18 A Correct.

19 Q Okay.

20 (Thereupon, Plaintiff Exhibit 11 was marked
21 for identification.)

22 BY MR. NIEHAUS:

23 Q I'm handing you Exhibit 11. Do you recognize
24 Exhibit 11?

25 A I do.

Page 100

1 more months or six more months, it does not jeopardize your
2 license, correct?

3 A That is my understanding.

4 MR. SCHAEFFER: Hold on, form, foundation. Go
5 ahead, you can answer now.

6 THE WITNESS: That is my understanding.

7 BY MR. ASKEW:

8 Q So maintaining the license and keeping it --
9 well, maintaining is the word used. The speed at which the
10 bankruptcy process goes or the time in which it takes to
11 sell the license, does the amount of time that takes impact
12 whether KDHX can maintain its license?

13 MR. SCHAEFFER: Form, speculation, foundation.
14 Go ahead.

15 THE WITNESS: Can you reask your question?

16 BY MR. ASKEW:

17 Q So next week KDHX is asking the court to
18 authorize the sale of the license, right?

19 A Huh-hum. Yes. I apologize. Yes.

20 Q If that sale -- let's say that sale goes
21 through six months from now, and KDHX continues during that
22 six month period to air previously recorded content,
23 continuing to air previously recorded content does not
24 jeopardize maintaining the license, is that right?

25 MR. SCHAEFFER: Same objection.

1 Go ahead.

2 THE WITNESS: That is my understanding.

3 BY MR. ASKEW:

4 Q So maintaining the license is -- maintaining
5 the license is not relevant to asking the court to
6 authorize this sale next week, right?

7 MR. SCHAEFFER: Same objection, form,
8 foundation, legal conclusion, speculation. You can answer.

9 THE WITNESS: I'm not sure I understand your
10 question.

11 BY MR. ASKEW:

12 Q Yeah, I'm sorry. You put in here -- this is a
13 motion to sell the license.

14 A Correct.

15 Q Do you have any idea what relevance
16 Paragraph 8 of your declaration has to asking the court to
17 sell the license next week?

18 MR. SCHAEFFER: Same objections and vague.

19 THE WITNESS: My understanding is that until a
20 sale is complete, KDHX is responsible for compliance with
21 the FCC, and to do that we need to have continual
22 programming.

23 BY MR. ASKEW:

24 Q And whether the court approves the sale next
25 week or eight months from now, as far as you understand,

Page 102

1 KDHX during that time period can continue to air previously
2 recorded content without jeopardizing its license?

3 MR. SCHAEFFER: Same objections.

4 THE WITNESS: According to my understanding,
5 yes.

6 BY MR. ASKEW:

7 Q Okay. Paragraph 9, it starts with since the
8 onset of its financial difficulties. When is that?

9 A I interpret this as recent financial
10 difficulties. But there's a chance this could be applied
11 for the history of KDHX.

12 Q Well, these are your words, so --

13 A I believe we're speaking about the recent
14 financial difficulties.

15 Q Okay. And what do you mean by recent
16 financial difficulties? I mean, can you put a time period
17 on that or a particular event that occurred or a particular
18 profit and loss statement?

19 MR. SCHAEFFER: You're talking about in the
20 context of 9?

21 MR. ASKEW: Yes, that's what I'm trying to
22 understand.

23 THE WITNESS: Towards the end of 2024, the
24 time period we spoke of earlier, yes. So the latter half
25 of 2024.

1 BY MR. ASKEW:

2 Q Okay. And then it says at the end, prior to
3 the petition date, debtor began actively marketing the
4 assets for a potential private sale. Do you see that?

5 A I do.

6 Q When did KDHX begin actively marketing the
7 assets?

8 MR. SCHAEFFER: Asked and answered.

9 THE WITNESS: We talked about that earlier.

10 BY MR. ASKEW:

11 Q Is that when we talked about hiring a broker
12 in late 2024?

13 A Correct.

14 Q And did you also answer already how KDHX
15 actively marketed? Is there anything more you can say to
16 that?

17 A I have nothing to add from what I said
18 previously.

19 Q And do you have anything to add beyond what
20 you said previously about to whom KDHX marketed its assets
21 to?

22 A I do not.

23 Q Then Paragraph 10, do you know when KDHX
24 received an acquisition offer from K-LOVE?

25 A It was in the latter part of 2024.

1 working at KDHX.

2 Q How did it -- why did it go away, because it
3 was sold or just because it expired, it wasn't sold?

4 A My understanding is it was FCC repackaging of
5 how those licenses were offered, and it had to do with
6 cable companies. That's my understanding.

7 Q For purposes of your declaration, we're only
8 talking about one license, right?

9 A Yes.

10 Q In Paragraph 8, to maintain that license with
11 the FCC, KDHX must provide continuous on air programming
12 right?

13 A Huh-hum.

14 Q You're doing that currently through previously
15 recorded programming, right?

16 A Correct.

17 Q And that is permitted by FCC regulation as far
18 as you know?

19 A It is.

20 Q So during the pendency of this bankruptcy,
21 KDHX is airing previously recorded programming. That's not
22 jeopardizing the license, is it?

23 A Correct, it is not.

24 Q So if the bankruptcy has -- if you continue to
25 air previously recorded content for two more months or four

Page 100

1 more months or six more months, it does not jeopardize your
2 license, correct?

3 A That is my understanding.

4 MR. SCHAEFFER: Hold on, form, foundation. Go
5 ahead, you can answer now.

6 THE WITNESS: That is my understanding.

7 BY MR. ASKEW:

8 Q So maintaining the license and keeping it --
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10 bankruptcy process goes or the time in which it takes to
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12 whether KDHX can maintain its license?

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18 authorize the sale of the license, right?

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21 through six months from now, and KDHX continues during that
22 six month period to air previously recorded content,
23 continuing to air previously recorded content does not
24 jeopardize maintaining the license, is that right?

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1 Go ahead.

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16 Paragraph 8 of your declaration has to asking the court to
17 sell the license next week?

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20 sale is complete, KDHX is responsible for compliance with
21 the FCC, and to do that we need to have continual
22 programming.

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25 week or eight months from now, as far as you understand,

Page 102

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2 recorded content without jeopardizing its license?

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8 onset of its financial difficulties. When is that?

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10 difficulties. But there's a chance this could be applied
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12 Q Well, these are your words, so --

13 A I believe we're speaking about the recent
14 financial difficulties.

15 Q Okay. And what do you mean by recent
16 financial difficulties? I mean, can you put a time period
17 on that or a particular event that occurred or a particular
18 profit and loss statement?

19 MR. SCHAEFFER: You're talking about in the
20 context of 9?

21 MR. ASKEW: Yes, that's what I'm trying to
22 understand.

23 THE WITNESS: Towards the end of 2024, the
24 time period we spoke of earlier, yes. So the latter half
25 of 2024.

1 BY MR. ASKEW:

2 Q Okay. And then it says at the end, prior to
3 the petition date, debtor began actively marketing the
4 assets for a potential private sale. Do you see that?

5 A I do.

6 Q When did KDHX begin actively marketing the
7 assets?

8 MR. SCHAEFFER: Asked and answered.

9 THE WITNESS: We talked about that earlier.

10 BY MR. ASKEW:

11 Q Is that when we talked about hiring a broker
12 in late 2024?

13 A Correct.

14 Q And did you also answer already how KDHX
15 actively marketed? Is there anything more you can say to
16 that?

17 A I have nothing to add from what I said
18 previously.

19 Q And do you have anything to add beyond what
20 you said previously about to whom KDHX marketed its assets
21 to?

22 A I do not.

23 Q Then Paragraph 10, do you know when KDHX
24 received an acquisition offer from K-LOVE?

25 A It was in the latter part of 2024.

1 Q Can you be more specific?

2 A It was either November or December.

3 Q Do you know if KDHX received K-LOVE's offer
4 before or after it received Joy's offer?

5 A I believe they were received at about the same
6 time. I don't know which came first.

7 Q Do you recall them both being negotiated at
8 the same time?

9 A Yes.

10 Q Am I correct that -- so Joy and -- Joy and
11 KDHX entered into a letter of intent, right?

12 A Correct.

13 Q And then that letter of intent was terminated?

14 A Correct.

15 Q Well, Paragraph 12 says that KDHX entered into
16 a letter of intent with K-LOVE, right?

17 A Huh-huh.

18 Q Do you know when?

19 A Well, after the -- after the -- after the
20 previous letter of intent with Joy FM was --

21 Q So Joy's letter of intent was terminated.

22 A Right. And then -- so the date of the LOI, I
23 do not remember that. I'm sure it was -- I don't know the
24 date.

25 Q But my question was just who came first.

1 A Oh.

2 Q So Joy was first. The signed LOI with Joy was
3 first.

4 Paragraph 11, Debtor's Board of Directors and
5 the Associate members voted to approve the proposed sale in
6 accordance with a vote that took place on March 3, 2025.

7 A Yes.

8 Q Okay. And the associate member vote took
9 place by electronic ballot, right?

10 A Correct.

11 Q Did the board vote take place by electronic
12 ballot or at a meeting?

13 A That's ridiculous that I can't specifically
14 remember. I think it was electronic ballot, but I could be
15 wrong.

16 Q I ask because Paragraph 11 just says that a
17 vote took place, so --

18 A Yeah.

19 Q Was it more than one vote?

20 A There were two votes, one for the board of
21 directors and one for the associate members, yes.

22 Q Even though they're identical with the
23 exception of Ryan Spearman, right?

24 A You mean the list?

25 Q The list.

1 A Yes.

2 Q So, again, I don't see a notice of either
3 meeting or either vote on March 3rd. Do you know if that
4 vote by either the board or the associate members was ever
5 planned to occur before March 3rd?

6 A I'm not sure what you're asking.

7 Q So on March 3rd those Article 9 votes took
8 place, right?

9 A Right. Right.

10 Q Do you know if those votes were ever planned
11 to take place before March 3rd?

12 A I don't know of a specific date. And I
13 didn't -- if you mean a date, no. We were always going to
14 have to take a vote of those two groups of people, but
15 there was no earlier date set that we didn't do or anything
16 like that.

17 MR. SCHAEFFER: Ben, would you be in a
18 position to take a short break soon?

19 MR. ASKEW: Yes. Yeah, let's just take a
20 break now.

21 MR. SCHAEFFER: Off the record.

22 (Thereupon, a recess was taken, after which
23 the following proceedings were had:)

24 MR. SCHAEFFER: Ms. Wells wanted to clarify
25 something from her prior testimony that she learned over

1 the break.

2 THE WITNESS: So you were asking about Number
3 11 here.

4 BY MR. ASKEW:

5 Q Hold on. You're talking about Exhibit 12,
6 your declaration?

7 A Yes.

8 Q Paragraph 11?

9 A Yes.

10 Q Okay.

11 A Gary looked at his emails just now, which I
12 was not a part of, but the board of directors took a vote
13 in person at the meeting on March 3rd, and then the
14 associate member vote was the next day by electronic
15 ballot, the next day on the 4th.

16 Q Thanks for that clarification.

17 Are you aware that in this bankruptcy process
18 KDHX has the opportunity to file a motion like this and try
19 to sell the assets early in the process or KDHX could wait
20 until the end of the bankruptcy process and perhaps assets
21 get sold at the end? Are you aware of those options
22 generally?

23 MR. SCHAEFFER: Yeah, vague, advice of
24 counsel. But if you have a general understanding, you
25 can --

1 THE WITNESS: I'm generally aware that is
2 true.

3 BY MR. ASKEW:

4 Q Okay. Can you answer why KDHX took these
5 votes on March 3rd and 4th and is proceeding to try to sell
6 early in the process? Can you answer that question without
7 divulging attorney/client privileged information?

8 MR. SCHAEFFER: Thank you.

9 THE WITNESS: You're asking if I know why
10 we're -- we're opting to sell early in the process?

11 BY MR. ASKEW:

12 Q Yes.

13 MR. SCHAEFFER: Can I just clarify something
14 for the record. Bankruptcy hadn't been filed as of a
15 March 3rd, right?

16 THE WITNESS: Correct. So I feel like it was
17 a two part request here. You're saying why the votes were
18 taken on this date or why -- I might have gotten confused.

19 BY MR. ASKEW:

20 Q Well, okay, two questions. First one, do you
21 know why these votes took place on March 3 and March 4 as
22 opposed to February or later in March?

23 A I believe it had to do with when the filing of
24 the bankruptcy would take place and we wanted to have the
25 permissions in place to move forward with that around the

1 sale if it was the best option to wrap the sale into that.

2 Q Okay. It's easy to see the benefit from
3 K-LOVE's point of view to buy the assets as early as
4 possible. Why is it in KDHX's best interests to try to
5 sell the assets early?

6 MR. SCHAEFFER: And, again, just for all these
7 line of questions, to the extent it involved your legal
8 strategies and discussions with counsel, I'll instruct you
9 not to answer. If there's something independent of that,
10 go ahead.

11 BY MR. ASKEW:

12 Q Is there a business reason related to the
13 timing of this motion?

14 A My understanding is that -- well, we've
15 already talked about KDHX being at the end of our financial
16 runway. So my understanding is that moving forward as
17 quickly as possible with the opportunity to have revenue
18 was important.

19 Q Well, assume KDHX has financing referred to as
20 DIP financing or DIP loan, so KDHX can get its financing
21 through a DIP loan to continue operating, right?

22 A Yes.

23 Q So financing continued operations during the
24 bankruptcy doesn't seem like a reason to try to sell early.
25 Do you know -- you can disagree with me if you want. Is

1 it?

2 MR. SCHAEFFER: I'm just going to object to
3 foundation and speculation to the extent -- and if you know
4 all this, feel free to say it, because I don't know what
5 you know on this issue, frankly. The connection of the DIP
6 financing and the sale, your knowledge on that. I'm just
7 objecting as potentially speculative, foundation, form.

8 THE WITNESS: It most definitely would be
9 speculative on my part, those two being together.

10 BY MR. ASKEW:

11 Q Is it speculation on your part testifying on
12 behalf of KDHX as to why KDHX is moving to sell early?

13 MR. SCHAEFFER: Vague. Asked and answered.

14 THE WITNESS: I wasn't involved in the
15 discussion about when all these documents would be filed,
16 so it would be speculative on my part to try to answer your
17 question.

18 BY MR. ASKEW:

19 Q Okay. If you'll turn to the last page of your
20 declaration, Paragraph 14, the purchase price for the
21 proposed sale received by Debtor offers terms consistent
22 with what Debtor might expect to receive as fair and
23 equitable consideration for such assets, what is the basis
24 for that statement?

25 A The basis for that statement is based on the

1 offers we did receive.

2 Q Based on the two offers?

3 A Yes.

4 Q Paragraph 16 you say it is your belief that
5 the current offer by K-LOVE represents the best and -- best
6 and highest offer for the purchase of assets, right?

7 A Yes.

8 Q Is there a difference from KDHX's perspective
9 between best and highest?

10 A I'm unsure. I guess to me it feels like they
11 go together here. And it was the highest, so perhaps that
12 made it the best.

13 Q Okay. And you say there's substantial risk of
14 deterioration of the value of the acquired assets and the
15 FCC license if the sale is not consummated quickly. What
16 is the risk of deterioration to the FCC license?

17 A I believe this is referring to risk of
18 deterioration of the value. Well, the deterioration of the
19 FCC license I believe is what we spoke about earlier, that
20 FCC licenses are losing value regularly, so.

21 Q But what reason do you have reason to believe
22 that the FCC license will be worthless in six months than
23 it is today?

24 A Yes.

25 Q Based on what?

1 A Based on the answer I gave you earlier about
2 our broker's explanation to us of how FCC licenses are
3 valued and how those trends are going.

4 Q And that was an oral conversation, correct?

5 A Correct.

6 Q Do you remember how much he estimated that the
7 license would go down in value in any period of time in the
8 future, three months, six months, two years?

9 A We didn't speak about three or six months. I
10 believe we did talk about two years.

11 Q What did he say?

12 A That it could potentially be worth half of
13 what it is worth now.

14 Q Potentially?

15 A Right.

16 Q Did he give you a likelihood of that, a
17 percentage, chance?

18 A He did not give a percentage chance. I
19 believe he indicated it was highly likely.

20 Q And that's the only time period you remember
21 him talking to you about that, is that correct?

22 A Yes. Well, there was a conversation that
23 said, you know, in 10 years this could potentially be what,
24 you know, how the whole industry goes, but it wasn't
25 specific to KDHX's license.

1 Q Okay. So when he was talking about in two
2 years it could potentially be worth half, your broker was
3 specifically referring to KDHX's license?

4 A My understanding of what he was referring to
5 is what he is seeing in the industry and our local market.

6 Q But here in your declaration you're telling
7 the court that you believe that if the sale is not
8 consummated quickly, there's a risk of deterioration to the
9 license. Do you know what you mean by quickly?

10 A I don't know specific days or months that
11 constitutes quickly. I mean, as quickly as possible.

12 Q Do you know what -- well, is the FCC license
13 KDHX's most valuable asset?

14 A Yes.

15 Q Do you know what document would show or maybe,
16 you know, what percent of KDHX's assets is comprised by the
17 license?

18 A I would have to estimate off the top of my
19 head.

20 MR. SCHAEFFER: Speculation then.

21 Go ahead.

22 THE WITNESS: 60 to 75 percent. And I guess
23 you're talking about the FCC license and not the other
24 assets along with it?

25

1 BY MR. ASKEW:

2 Q Right. So we have an asset license. You have
3 a purchase agreement to sell it for, you know, over four
4 million. There's an offer from Joy to sell it for over
5 five million-dollars. Let's say it's worth five
6 million-dollars. What percentage of KDHX's assets does
7 that take up?

8 MR. SCHAEFFER: Speculation. Go ahead.

9 THE WITNESS: The rest of our physical assets
10 I think total around maybe, I'm not sure, 2.5 million in
11 addition to that or --

12 BY MR. ASKEW:

13 Q Well, what would we look to?

14 A Probably the filings I would assume that list
15 what our assets are.

16 Q Other than what's filed in the bankruptcy
17 court, are you aware of any corporate record that shows the
18 value of KDHX assets aside from the license?

19 A They're assets listed in your annual audits.

20 Q So look to those, look to the 990, look to the
21 P & L's or look to all the financial documents you
22 provided?

23 A Huh-huh.

24 Q Okay. Paragraph 17 -- well, back to 16. Is
25 there any other reason you have to give the court as to why

1 you believe it is important for this sale to be consummated
2 quickly other than what's in your declaration?

3 MR. SCHAEFFER: Can I clarify something,
4 before we were talking exclusively about the FCC license
5 and not the other assets. Is this question pertaining to
6 both?

7 MR. ASKEW: Yes.

8 MR. SCHAEFFER: Okay.

9 THE WITNESS: Will you restate your question,
10 please?

11 BY MR. ASKEW:

12 Q So Paragraph 16 in your declaration gives your
13 belief regarding K-LOVE's offer and the reason why KDHX
14 wants the sale to be consummated quickly, correct?

15 A Correct.

16 Q Do you have any reason to give the court
17 beside what's in Paragraph 16 as to why KDHX believes this
18 sale should be consummated quickly?

19 A No.

20 Q Those are usual business reasons in Paragraph
21 16?

22 A Correct.

23 Q Paragraph 17, you say that the sale of all or
24 substantially all of KDHX's non-real estate assets as a
25 going concern to K-LOVE is in the best interests of KDHX,

1 its creditors and other parties in interest. Do you feel
2 like you've answered previously today, let me know -- why
3 do you believe it's in the best interests of KDHX?

4 A It's in the best interests of KDHX to move
5 forward quickly, is that what you're asking?

6 Q Well, I'm just -- just on your paragraph, why
7 is the sale of assets to K-LOVE in the best interests of
8 KDHX?

9 A Because it both solves the financial issues
10 that we've outlined and can potentially allow the
11 organization to be sustainable in the future so that we can
12 continue our mission.

13 Q And why is it in the best interests of
14 creditors to sell to K-LOVE?

15 A So that they can be made whole and paid.

16 Q Is there any benefit -- is there any benefit
17 to the creditors if they get paid through a sale to K-LOVE
18 or through a sale to Joy or to somebody else?

19 A So we've stated here that K-LOVE's offer we
20 believe to be the best and highest. If that is true, then
21 subsequently selling to them is in the best interests of
22 KDHX, its creditors and other parties of interest.

23 Q But specifically with respect to the
24 creditors, is it in their best interests to sell to K-LOVE
25 so that they get paid in full?

1 A Considering that we have agreements with
2 K-LOVE, I would say yes.

3 Q I'm just wondering, these are your words and
4 you're saying that you believe that selling to K-LOVE is in
5 the best interests of creditors, and I understand that one
6 reason is that they would get paid in full?

7 A Right.

8 Q Is there any -- I'm wondering why else you
9 said this, if any reason. Is there any reason for it to be
10 in the creditor's interest to sell to K-LOVE as opposed to
11 anyone else if they get paid in full?

12 MR. SCHAEFFER: Asked and answered.

13 THE WITNESS: If we have agreements with
14 K-LOVE that we feel are the best and highest offers, and we
15 are already entering in these agreements, it's in the best
16 interests of the creditors because they can get paid back
17 and paid back quickly, perhaps more quickly.

18 BY MR. ASKEW:

19 Q What other parties in interest is this in the
20 best interests of?

21 A I don't know that that's been defined by the
22 corporation. So if I were to answer, I would say to the
23 people that KDHX has the opportunity to serve, that our
24 mission could be some of those parties in interest.

25 Q Anyone else?

1 A I have nothing to add.

2 MR. ASKEW: Did you mark when we were -- I'm
3 not keeping track of time. Did you mark when we went back
4 on the record?

5 MR. SCHAEFFER: I did.

6 MR. ASKEW: Okay. Thank you.

7 (Thereupon, Plaintiff Exhibit 13 was marked
8 for identification.)

9 BY MR. ASKEW:

10 Q I'm handing you Exhibit 13. This is the asset
11 purchase agreement with K-LOVE that KDHX filed. Do you
12 recognize Exhibit 13?

13 A I do.

14 Q And have you read this in full?

15 A I have.

16 Q We spoke earlier about Joy. You had a letter
17 of intent with them. Was there of a draft asset purchase
18 treatment with Joy?

19 A I believe so.

20 Q Okay.

21 MR. SCHAEFFER: Just to help you with
22 nomenclature, for someone who may not know what an asset
23 purchase agreement is as opposed to an LOI, you have all of
24 the drafts.

25 MR. ASKEW: Okay. Thanks.

1 when the items on here are paid, for instance, a bill I've
2 noted that it's been paid, but so often the vendor payment
3 sheet, that's what I would be working from. I think you
4 mentioned it earlier.

5 (Thereupon, Plaintiff Exhibits 45 & r6 were
6 marked for identification.)

7 BY MR. ASKEW:

8 Q Right. Now, I'll go ahead and mark both of
9 them. So we have 45 and 46. I know that 46 is hard to
10 read, but did you help prepare these?

11 A I believe this is the same, is it not, the
12 same thing? Oh, it's -- oh, it's an extension of this.
13 Actually when this -- so this was my larger worksheet, and
14 then I was asked specifically about vendor payments by
15 Mr. DeWoskin. So this is why this is segregated out, but
16 this is also included here.

17 Q Okay. Do you all still pay a PR firm?

18 A We do.

19 Q Why do you have a PR firm?

20 A For public relations.

21 Q Do you think that's a good use of -- well,
22 given your financial situation, do you think that's a good
23 use of your money?

24 A Yes.

25 Q I think I've seen -- I've seen an email to

1 volunteers with an attachment press release that I think
2 was created by them. Do you know what I'm talking
3 about?

4 A They have helped us create various press
5 releases over the last two years. Other attorneys have as
6 well.

7 (Thereupon, Plaintiff Exhibit 47 was marked
8 for identification.)

9 BY MR. ASKEW:

10 Q Exhibit 47 are the minutes from 2/18 where
11 KDHX amended its bylaws. Are you familiar with Exhibit 47?

12 A Yes.

13 Q And do you remember KDHX changing its bylaws
14 in 2018?

15 A Yes.

16 Q And the board voted on it. Is that shown
17 here?

18 A According to -- yes.

19 Q The associate members do not vote on it,
20 correct?

21 A No.

22 Q And the annual members did not vote on it,
23 correct?

24 A No.

25 Q I just want to make sure we're on the same

1 page. Am I correct that the annual members and associate
2 members did not vote on these bylaw changes?

3 A Correct.

4 Q And in 2021 the bylaws were changed again,
5 correct?

6 A Yes.

7 Q And did the associate members vote on those
8 changes?

9 A No.

10 (Thereupon, Plaintiff Exhibit 48 was marked
11 for identification.)

12 BY MR. ASKEW:

13 Q Exhibit 48, these are, this is the executive
14 session minutes from February 19, 2025. Are you familiar
15 with Exhibit 48?

16 A Yes.

17 Q So February 19th, that's the day after the
18 annual associate meeting occurred, correct?

19 A Correct.

20 Q And at that meeting one of the things that was
21 discussed was the board of directors election that the
22 court had ordered that the plaintiffs get to participate
23 in, correct?

24 A Correct.

25 Q And at this February 19th board meeting there

1 was an action taken, the first action, motion to nominate
2 Ray Finney to be on the board election ballot or for
3 appointment to the board pending election outcome, do you
4 see that?

5 A I do.

6 Q Who wrote that?

7 A It was the motion made verbally in the board
8 meeting that was then noted on the minutes.

9 Q Who takes the minutes?

10 A The secretary.

11 Q Who is it?

12 A Joan Bray.

13 Q What does KDHX understand this action to be
14 saying?

15 A That the board nominated Ray Finney to be on
16 the election ballot.

17 Q Okay. That's the first part.

18 A And then to appoint him to the board.

19 Q Pending election outcome?

20 A Huh-hum.

21 Q Yes?

22 A Yes.

23 Q What does that mean? Does that mean that he's
24 going to be appointed to the board if he loses the
25 election?

Page 186

1 A That could be interpreted that way, yes, I
2 assume.

3 Q I want KDHX's interpretation. What does it
4 mean that they took an action for appointment to the board
5 pending election outcome?

6 A That Ray would move to a board appointed spot
7 instead of an associate election spot.

8 Q So preliminarily it was decided if he lost the
9 election, he's appointed to the board anyway?

10 A Yes.

11 Q Have you ever done anything like that before?

12 MR. SCHAEFFER: Objection, vague.

13 BY MR. ASKEW:

14 Q Has KDHX ever appointed someone to be a board
15 member in case they lose an election?

16 A I don't know.

17 Q KDHX campaigned for Ray Finney in that
18 election, correct?

19 A I don't know what you mean by KDHX or
20 campaigned.

21 Q KDHX campaigned for Ray Finney in this
22 election, correct?

23 MR. SCHAEFFER: Asked and answered.

24 THE WITNESS: Define campaign and KDHX in
25 this.

1 BY MR. ASKEW:

2 Q For example, KDHX employees called volunteers
3 and texted them, emailed them, asking them to vote for Ray
4 Finney, correct?

5 A Yes.

6 Q That's campaigning, right?

7 A I asked your definition, examples.

8 Q Okay. KDHX went around to all its associate
9 members that it could call and told them they should vote
10 for Ray, right?

11 A I don't know that we -- that they said you
12 should vote for Ray. I saw a couple of email messages
13 that said I would like you to consider Ray Finney, let me
14 tell you why I think why he's done a good job on the
15 board.

16 Q Can you think of any other instances why KDHX
17 employees campaigned for a --

18 A KDHX has very rarely had an nominee other than
19 someone that the board has nominated, so this is a unique
20 situation.

21 Q Yeah, like in 2024 when there was only Caryn
22 Haddix was the only nominee on the ballot, right?

23 A Right.

24 Q That's because KDHX kicked everyone off the
25 ballot, correct? The question is in 2024 for the election